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February 27, 2003

TO: Each Supervisor

FROM: Thomas L. Garthwaite, M.D.  
Director and Chief Medical Officer

A handwritten signature in blue ink, reading "Thomas L. Garthwaite", is placed over the printed name and title of the sender.

SUBJECT: **ADULT FILM INDUSTRY EDUCATION AND  
OUTREACH EFFORTS**

On January 14, 2003, the Board of Supervisors instructed the Department of Health Services (DHS) to report back in 30 days on: 1) Ways to enhance educational and outreach efforts to workers in the adult film industry to prevent HIV/AIDS and other sexually transmitted diseases (STDs); 2) In consultation with County Counsel, identify an appropriate regulatory entity at the County or State level to oversee and ensure protection of workers in this industry and others unknowingly exposed; and, 3) To work with the CAO and County legislative advocates to advocate for any State legislation to implement any necessary regulation.

## BACKGROUND

Adult Industry Medical (AIM), a non-profit organization was formed in 1998 to address HIV and other health risks and to advocate for workers in the adult film industry after an outbreak of HIV resulted in the infection of at least five film industry workers. Since that time, HIV testing, combined with basic HIV education and counseling, has become an accepted voluntary standard by most producers in the heterosexual adult film industry. An AIM-certified negative HIV test result (within the previous 30 days) is required by most producers prior to filming. AIM estimates that it currently conducts monthly HIV testing for 95 percent of adult heterosexual film industry workers. In addition, new AIM clients receive counseling and educational videos, covering HIV and other STDs. Partners of infected individuals are notified by AIM, and are not allowed to work until that worker is determined to be uninfected. Workers who test positive for HIV are excluded from working in the heterosexual adult media industry. Since 1998, AIM has documented 11 positive HIV results among industry workers and persons attempting to enter the industry. AIM believes there is widespread industry adherence with AIM protocols and prompt notification of sex partners. These 11 individuals are not known to have transmitted HIV to other industry workers in the course of their employment.

AIM also provides testing for other STDs (with some support from this Department's STD Program), as well as additional physical and mental health services and referrals for the workers. However, none of these services are mandatory. AIM estimates that other STD testing is only 10 percent complete as workers are not required to show proof of testing prior to working and generally must pay for the testing. Rates of reportable STDs among those tested by AIM in 2002 were 7.4 percent for chlamydia, 2.7 percent for gonorrhea, and 0 percent for syphilis. STD/HIV testing and condom use policies and worker rights are not posted at filming worksites, and very limited opportunities exist for routine ongoing education of established performers. In all but one company, condoms are not required, and are not routinely used. AIM estimates that herpes (HSV-2) and human papilloma virus (HPV, the virus that causes cervical cancer and genital warts) infections are nearly universal and that none of the workers are screened for these STDs.

In the gay male adult film industry HIV-positive individuals are not excluded from working. AIM estimates that 80 percent of gay male performers are HIV-positive and condoms are not routinely used. Currently there is no routine HIV or STD testing or counseling offered or required for workers in this industry.

## **CURRENT REGULATION AND OVERSIGHT**

To the extent DHS can determine, no agency conducts oversight of this industry although Cal/OSHA may have jurisdiction to do so. County Counsel has identified certain sections of Title 8 of the California Code of Regulations related to worker health and safety issues that may be applicable to this industry. In particular, §5193, Bloodborne Pathogens, and §3203, Injury and Illness Prevention Program, may require industry employers to develop written plans specifically related to possible worker health hazards. Local Cal/OSHA offices, to our knowledge, have not had previous regulatory contact with this industry.

## **RECOMMENDATIONS**

The current voluntary program of HIV testing and documentation appears to have reduced the risk of HIV transmission within the adult heterosexual film industry. However, substantial gaps exist in prevention and worker education for other STDs, and in industry oversight related to worker health and public health issues. In light of these gaps, DHS makes the following recommendations:

- 1) The Board of Supervisors request a review by Cal/OSHA of the applicability of §5193, §3203, and other sections of Title 8 of the California Code of Regulations that may be applicable to the adult film industry, or the need for a new standard to protect sex industry workers from occupational exposure to STDs and other health risks that are unique occupational hazards in the adult sex industry.
- 2) A written industry plan should be required by Cal/OSHA for worker health and safety consistent with relevant sections of Title 8, if determined applicable, or promulgated under new regulations. This plan should include at a minimum:

Testing for HIV and curable STDs (chlamydia, gonorrhea, syphilis, trichomoniasis, and bacterial vaginosis) and other incurable STDs (herpes simplex virus, human papilloma virus) using approved protocols;  
Hepatitis B and C testing, and hepatitis A and B vaccination (need determined by results);  
Disclosure of HIV/STD/hepatitis status among performers;  
Universal requirement for use of condoms;  
Documentation and maintenance of records of test results, vaccination history, and sex partner contacts for filming events;  
Additional periodic reproductive health check-ups with health and safety counseling;  
and,  
Monitoring of compliance with health and safety plans;

Detailed descriptions of current practices, oversight issues, and recommendations are attached.

If you have any questions or need additional information, please let me know.

TLG;jh

Attachment

c: Chief Administrative Officer  
County Counsel  
Executive Officer, Board of Supervisors

## **EDUCATION AND OUTREACH EFFORTS AMONG WORKERS IN THE ADULT FILM INDUSTRY**

### **CURRENT PRACTICES**

**HIV prevention protocols and practices** - Adult Industry Medical (AIM) is a non-profit organization formed to provide HIV and STD testing and other services for adult industry workers. AIM also works with producers and distributors in the industry to develop policies for HIV/STD testing and worker health issues. Most AIM clients participate in the production of heterosexual, female bisexual, or male bisexual sexually explicit materials, including videos, DVDs, material for the internet, or still photos. Common practices differ markedly between producers of heterosexual content and producers of male homosexual content. In addition to testing for the adult industry, AIM also conducts outreach testing for HIV and other STDs at sex clubs.

AIM was formed in 1998, following several instances of HIV infection among heterosexual performers in the adult industry. Working with adult industry performers and producers, AIM developed basic protocols for preventing further HIV infections. AIM estimates that these protocols are now observed by 95 percent of producers and performers in the heterosexual adult industry. Because most performers work for a range of companies, AIM believes that performers who work for non-compliant producers have still been largely covered by the testing protocols. AIM is currently the only provider of certificated HIV test results recognized by industry producers.

The AIM protocols include monthly testing for HIV by DNA PCR method, and a certification system so that only workers with negative test results less than 30 days old may participate in sex acts. AIM also provides a 25-minute counseling session and informational videotapes to each new client. AIM maintains data on each client, and is authorized by clients to notify all partners and producers of a positive test result (by the client's stage name) without the client's further consent. The DNA PCR test used by AIM and required by the industry directly measures the presence of HIV virus in the body. Use of the DNA PCR test reduces but does not eliminate the window period, i.e., the time after exposure that a diagnosis of a new HIV infection can be made. Workers are financially responsible for their own testing expenses. AIM has also created linkages with health providers in other localities and states, so that performers who are returning to do an adult film can receive their HIV test in time for filming.

Since the initiation of these testing protocols in 1998, AIM maintains that 11 individuals in the heterosexual adult industry have tested positive for HIV, and that, because of the provisions for rapid notification, none of these individuals are known to have infected or continued to expose other performers.

The gay adult industry, however, has not adopted the main principle of HIV prevention to which producers of heterosexual content adhere, i.e., that HIV-positive status excludes a performer from working in the industry. In fact, AIM estimates that 80 percent of performers in the gay adult industry are HIV-positive.

**Other STDs** - Tests for other STDs are not mandatory under current heterosexual industry protocols. However, AIM does provide voluntary testing for chlamydia, gonorrhea, and syphilis in collaboration with the Department's STD Program. AIM estimates that it conducts only 10 percent as many tests for bacterial STDs as it does HIV tests. The main barriers to more frequent STD testing by AIM clients are additional paperwork and a one-week turnaround time (compared with 24 hours for the HIV test). In addition, the financial burden of frequent STD testing, especially with rapid turnaround, may discourage testing among many performers.

According to data collected by the STD Program during 2002, 7.9 percent of 353 tests among females and 6.8 percent of 337 tests among males were positive for chlamydia; and of 437 total tests for syphilis (January through October 2002) none were reactive (positive). According to AIM, of 736 tests for gonorrhea in 2002, 20 (2.7 percent) were positive. These levels of disease are roughly consistent with what would be expected from a younger (about half of those tested for chlamydia were under age 25) and higher risk heterosexual population in L.A. County.

There is no systematic assessment of workers for additional diseases that can be transmitted sexually, including hepatitis B and C, herpes simplex virus 2 (HSV-2), human papillomavirus (HPV) or genital warts, and diseases which, though not exclusively sexually transmitted, are transmissible by sexual contact, including hepatitis A, giardia, and other fecal-oral diseases. There is also no routine vaccination for hepatitis B, the only STD for which an effective vaccination currently exists. However, AIM does provide at least 100 Pap smears per year, which can detect the pre-cancerous cell changes caused by HPV. AIM estimates that infection with two other incurable viral diseases, HPV and HSV2 (herpes), is nearly universal among industry workers, and that workers who do not have these diseases generally acquire them shortly after working in the industry.

**Condoms** - According to AIM, only one heterosexual adult production company has a strict "condom only" policy for intercourse. AIM data collected in 1999, showed that only 17 percent of clients used condoms consistently when performing. Production companies do not typically provide condoms. It is not clear to what extent workers who wish to use condoms are excluded from work, but it appears that workers often encounter implicit or explicit encouragement not to use condoms.

Condoms are almost never used during oral sex in either the heterosexual or gay adult industry. Until recently, most performers in the gay adult industry wore condoms for intercourse. However, an emerging sub-industry of gay adult content features performers who do not use condoms. These performers are presumed to both be HIV-positive; however, it is unclear how HIV status is monitored or verified.

**Drug use** - AIM currently maintains an affiliation with the Tarzana Treatment Center, to which it refers 4 to 14 persons per month for drug treatment. AIM estimates that among heterosexual performers, methamphetamine use is widespread, and alcohol use is increasing. Only one production company maintains a mandatory drug testing policy, for a limited number of contract employees.

## **CURRENT STD PREVENTION GAPS IN THE ADULT FILM INDUSTRY**

Like many workers, adult industry workers are at risk for specific diseases as a direct result of the employment. Because these diseases are principally communicable in nature, infections within the industry may also impact the general community through sexual contacts between performers and persons outside the industry. Health concerns for adult industry performers, therefore, include both the impact of work-related illnesses on the performers themselves and a public health concern related to the control of communicable diseases.

HIV prevention in the heterosexual branch of the industry appears to be generally accepted and effective, with good overall compliance. However, bacterial STDs (chlamydia, gonorrhea, and syphilis), though not exceptionally more prevalent among industry workers, are addressed less effectively, due to the absence of the systematic and near-universal screening that has been adopted for HIV. Most other viral STDs that can be transmitted through sexual contact are not routinely assessed, and no routine practices exist for their prevention. In particular, the lack of systematic condom use may contribute to widespread infection with HPV and HSV-2.

AIM routinely provides counseling and informational videotapes containing HIV and STD prevention information to new entrants. AIM also offers a range of reproductive health services, including STD testing, Pap smears, and even drug and alcohol treatment referrals, and two annual workshops on industry health issues (which are apparently well attended). Most performers in the heterosexual industry have routine contact with AIM for mandatory HIV testing, and are at least aware of other available services. However, most performers do not regularly access these additional educational encounters, materials, and health services. Hepatitis B assessment and vaccination are not required by most companies, nor is screening required for bacterial STDs (chlamydia, gonorrhea, and syphilis), or for another curable STD, trichomoniasis.

In addition, information regarding worker education and “rights and responsibilities” is generally not made available outside AIM, especially at actual film sets and production facilities. There are no provisions in the accepted HIV testing protocols that require these protocols to be posted at the worksite; nor are there posted guidelines of worker rights or prerogatives related to the existing HIV protocols, such as the right to examine current (HIV) test certificates of other performers, or information on the availability of other STD tests for AIM or other providers; nor is other basic health and safety information provided at worksites, regarding topics such as workers’ compensation, rules regarding hours and breaks, and first aid information or equipment. High compliance with the existing HIV testing protocols notwithstanding, no mechanisms appear to exist for monitoring

compliance of production companies with these protocols, or for reviewing non-compliant companies or enforcing related worker protections (e.g., not to work with performers who do not have proper documentation of an approved HIV test less than 30 days old).

Finally, the current financial structure of STD/HIV education and testing does not encourage, and may impede, full use of such services. Workers are not paid for time spent testing, though (HIV) testing is required for them to work. Workers are also responsible for all the costs of testing. Therefore, in terms of both time (an indirect expense) and direct costs, workers have disincentives to access non-mandatory STD testing or additional prevention activities, such as counseling, support groups, or regular general physicals or regular gynecological exams.

## **REGULATION AND OVERSIGHT GAPS**

In terms of worker health, this industry is not regularly monitored by any formal agency. In the City of Los Angeles, and in several other cities and unincorporated areas of the County permits must be obtained from the Entertainment Industry Development Corporation/L.A. Film Office prior to production. To assure compliance with laws related to child pornography, industry producers must keep records verifying the age of performers.

Title 8 of the California Code of Regulations, §5193, Bloodborne Pathogens, may be applicable to the industry in terms of worker risk for HIV, and hepatitis B and C. Syphilis, though not specifically named in the standard, can be bloodborne and, therefore, may be covered under the standard. Another section of Title 8, which may be applicable to the industry, is CCR Section §3203. If applicable, Title 8, §3203 would require all employers to establish, implement and maintain an effective Injury and Illness Prevention Program. This standard may be construed to cover other communicable diseases to which performers are exposed. No production company is known to have produced and distributed a written plan in compliance with this standard. However, the industry has demonstrated, through the successful implementation of its voluntary system for HIV testing, documentation, and (positive) test result notification, a capability for developing written procedures, communication plans, and documentation to address an occupational health and safety requirement. The industry, therefore, seems capable of expanding its role in worker health and safety to address hazards specific to its industry, as would be required of any class of employers who expose workers to industry-specific health and safety risks (e.g., mine operators, construction contractors).

An important consideration and complication in establishing additional formal oversight of this industry is the relative ease with which production can be exported beyond the area of jurisdiction. Clearly, any system of local (e.g., County) regulation deemed too burdensome or restrictive by producers could be circumvented by moving actual production out of the County. Even State oversight could be similarly avoided by moving production to another state, or possibly overseas. To some extent, such “regulatory flight” could be discouraged by imposing requirements on distributors or even point-of-sale vendors (such as video stores, pay-for-view in motels/hotels), who potentially could be

prohibited from offering materials made by non-compliant production companies for sale within the County. However, the ease with which sexually explicit content can be offered and accessed through the internet, which involves no local distribution or sale, reduces the potential impact of such an approach.

## **DETAILED RECOMMENDATIONS**

In the heterosexual branch of the industry, the current model for HIV testing serves as a ready framework for adding additional STD testing and other health safeguards, as well as more extensive worker education. These provisions should be contained in written plans, as may be required by California Code of Regulations Title 8, §5193 (Bloodborne Pathogens) and §3203 (Illness and Injury Prevention Program).

DHS recommends that the Board of Supervisors request Cal/OSHA to review the applicability of these safeguards and any other appropriate standards to the adult industry. Plans should be reviewed by DHS. A model industry plan should include:

- 1) Testing for HIV - Current heterosexual industry protocols have been implemented with an estimated 95 percent compliance, and appear to have eliminated new infections resulting from industry work since 1998. These protocols should be maintained and extended to the gay male industry. Protocols should be formalized and documented as needed. These protocols should conform to any applicable Cal/OSHA standards.
- 2) Testing for curable STDs (chlamydia, gonorrhea, syphilis, trichomoniasis, and bacterial vaginosis) - Testing for these diseases should be expanded from its current voluntary status to a requirement. Testing should be performed no less frequently than for HIV, although the shorter incubation period for these diseases may indicate the need for a shorter testing interval (i.e., less than four weeks). The appropriate interval could be determined through assessment of disease incubation periods, practical laboratory capabilities. Other details, such as conditions for treated individuals to return to work (e.g., after tests of cure, provided after an appropriate time period) also would need to be determined. Criteria would need to be established for a clinic or health provider to be designated as acceptable for conducting industry testing. Such criteria could be modeled on AIM, and should include, at minimum, capabilities in testing, treatment, data collection, counseling, notification of individuals and companies regarding positive results, and certification of testing and test results. Some mechanism of review would be needed to assure that providers are independent of industry management.
- 3) Hepatitis B and C testing, and hepatitis A and B vaccination (as needed) - Tests and vaccinations should be available to all workers entering the industry, and documentation of immunity status maintained by the worker and production companies. The need for all hepatitis tests and vaccinations may be covered by the Cal/OSHA Bloodborne Pathogens standard, with the exception of hepatitis A vaccination.



- 4) Additional periodic reproductive health assessments - Annual or semi-annual check-ups should be given to test for other STDs, including HSV-2, HPV, and fecal-oral diseases (e.g., giardia, shigella). Treatment and return-to-work provisions for fecal-oral diseases should be adapted from similar provisions pertaining to other industries, (e.g., food handlers.) Periodic check-ups should also include gynecological exams for women, including Pap smears, HPV testing and testicular and prostate exams for men.
- 5) Education on STD risks, drug treatment, and worker rights related to health and safety including HIV/STD protocols for the industry - Basic information, including worker rights, should be available at worksites, and on some other routine basis, through AIM or comparable providers.
- 6) Periodic health and safety counseling - Industry workers should be provided with updated information on a regular basis along with counseling. This information should include discussion of industry health risks, industry illness and injury prevention plans and practices, worker rights, and additional referral resources (e.g., drug treatment). These communications could take the form of workshops as well as individual sessions.
- 7) Provisions for the industry to bear the costs of required medical services - To remove financial disincentives as barriers to accessing required health services, industry production and distribution companies should create a framework for underwriting or reimbursing for such services. Presumably, additional costs borne by the industry could be passed on to secondary distributors and to consumers.
- 8) Documentation and data collection - The current framework for documenting and recording HIV tests and test results should be expanded to cover the above additional health and safety provisions. Companies should also keep records on all partner contacts, to aid in disease control notifications as needed. Ideally, production and distribution companies should maintain a centralized database documenting all partner contacts for each production.
- 9) Monitoring - Compliance with illness and injury prevention plans should be monitored on a periodic basis. Monitoring could be achieved through a variety of means, including the use of AIM or equivalent health providers, use of County personnel, or Cal-OSHA.
- 10) Condoms - Universal requirement for use of condoms. Requirements to use condoms would represent substantial changes in current industry practices. While HSV-2 and HPV are widespread among sexually active adults outside the adult industry, lack of condom use places workers at some increased health risk, including cervical and anal cancer from HPV, and increased potential for HIV transmission, if exposed from HSV-2. It should be required that condoms be used for all penetrative sex acts, including oral sex. It is not clear, however, how condom use could be required or

enforced in the industry; one possibility may be to monitor distribution and include requirements for condom use in filming permits.

## **THE GAY MALE ADULT FILM INDUSTRY – SPECIAL ISSUE**

The gay male adult film industry currently lacks the same norms for exclusion of HIV-positive individuals from working in the industry, and has not participated in AIM testing. Lack of condom use among performers who are HIV-positive remains a serious concern from an individual health and a public health perspective. Although use of condoms has been shown to be highly effective in preventing HIV, direct penetrative sexual contact (including oral sex) between serodiscordant individuals represents potential for HIV transmission. The long-term effects of direct sexual contact between positive individuals is not fully known, but includes the potential for infection with different strains of HIV, and includes the risk of development of drug resistance and transmission of drug-resistant strains. It also creates the possibility for transmission of other STDs, notably including syphilis, which can facilitate HIV transmission to (HIV-negative) sex partners outside the adult industry. HIV testing among gay industry performers should be documented (as in the heterosexual industry), and disclosed to all other performers. If HIV-positive individuals do continue to work in the industry, they should have direct sexual contact only with other positive individuals, and should use condoms for all sex acts (including oral sex). Testing for other STDs that facilitate HIV transmission, especially including syphilis, should also be covered as part of the HIV prevention plan.

## **RECOMMENDATION FOR NEW OCCUPATIONAL STANDARD**

Current Cal/OSHA standards do not specifically cover exposure to the non bloodborne STDs. DHS, therefore recommends that the Board formally request Cal/OSHA to develop a new standard, which would provide a framework for protecting sex industry workers from chlamydia, gonorrhea, trichomoniasis, syphilis, HSV-2, HPV, and fecal-oral diseases, similar to that already established for bloodborne pathogens. It should be noted that, unlike bloodborne pathogens, occupational exposure to other STDs is unique to the adult sex industry. If the Board concurs in this recommendation, DHS will work with the Chief Administrative Office and County legislative advocates to initiate such regulations.